

APPEAL NO. 021727  
FILED AUGUST 9, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 3, 2002. The hearing officer determined that the appellant/cross-respondent's (claimant) date of injury is \_\_\_\_\_; that on \_\_\_\_\_, the claimant did not sustain a compensable injury; that the respondent/cross-appellant (carrier) did not specifically contest compensability on the issue of timely notice to the employer; and that because there is no compensable injury, there can be no disability. The claimant appealed asserting that she did sustain a compensable injury because the carrier did not dispute compensability within 60 days, and that she did have disability. The carrier responded, urging affirmance. The carrier cross-appealed the hearing officer's determination as to the date of injury and timely notice to the employer. The file does not contain a response to the carrier's request for review from the claimant.

DECISION

Affirmed.

We have reviewed the complained-of determinations contained in the claimant's appeal and the carrier's cross-appeal and find that the hearing officer's Decision and Order is supported by sufficient evidence to be affirmed in its entirety. The issues presented a question of fact for the hearing officer. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a); Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). There was conflicting evidence presented on the disputed issues. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Ins. Co., 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). Nothing in our review of the record reveals that the hearing officer's determinations are so contrary to the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to reverse those determinations on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We note that the claimant asserts that the hearing officer determined that the carrier failed to timely contest the compensability of her injury and that she therefore has a compensable injury as a matter of law. Our review of the record shows that the carrier clearly contested compensability of the claimant's injury within 60 days. The hearing officer merely determined that the carrier failed to raise the defense of the claimant's failure to give the employer timely notice of the injury, thereby waiving it. The hearing officer did not determine that the carrier waived its right to contest the compensability of the injury.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY  
800 BRAZOS, SUITE 750, COMMODORE 1  
AUSTIN, TEXAS 78701.**

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Daniel R. Barry  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Susan M. Kelley  
Appeals Judge